

Russell Brown  
CHAPTER 13 TRUSTEE  
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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA

In re

FERDINANDO NINO FORTINEAUX,

and

SHAWNTELL ANETTE FORTINEAUX,

Debtors.

Chapter 13

Case No. 2-19-bk-15345-BKM

**TRUSTEE'S RECOMMENDATION**

Deadline is May 10, 2020

The Trustee has reviewed the Plan, Schedules, and Statement of Financial Affairs. Plan, and case in general, have problems, the most significant of which are:

1. Per the Meeting of Creditors held January 22, 2020, Debtors' 2019 Kia Optima was totalled. An amended Plan is to be filed.

2. Conn Appliances Inc scheduled as secured, but claims #9 and #10 were filed as unsecured. Amended Plan must correct treatment of the claims.

3. The proofs of claim filed by IRS (claim 018) and American Credit (claim 017) differ from the creditors' treatment under the Plan or are not provided for by the Plan. The Trustee has received no notification that the issues have been resolved and the Debtor(s) must resolve the discrepancies before the Trustee recommends confirmation of the Plan. As to each claim, the Trustee requires that the Debtor(s): (a) file an objection to the claim (if the debt is believed to be unsecured); (b) notify the Trustee **in writing** that the claim issue has been resolved and the holder of the claim will endorse

1 the order confirming the Plan; (c) notify the Trustee **in writing** that the order confirming the Plan  
2 will provide for full payment of the claim; or (d) timely file an amended Plan to provide for some  
3 or all payment on the claim. If resolution of the claims changes Plan funding requirements, the  
4 Trustee requires the receipt of an amended Plan analysis (Local Form 13-2) with any proposed Order  
5 confirming the Plan. If one or more objections to the proofs of claim is timely filed by the  
6 Debtor(s), then the time to submit a proposed Order confirming the Plan to the Trustee is extended  
7 by 15 days after substantive completion of the last objection.  
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9 4. Arizona Department of Revenue (claim 002) has filed an objection to the Plan. The  
10 attorney for the Debtor(s) must notify the Trustee if the objection has been resolved or, if the  
11 objection is unresolved, file the appropriate motion to get the Court to hold a hearing on the  
12 objection. If resolution of the objection changes Plan funding requirements, the Trustee requires  
13 receipt of a new Plan analysis with any proposed order confirming the Plan. If a motion is filed to  
14 get a hearing before the Court, the time to submit a proposed Order confirming the Plan to the  
15 Trustee is extended.  
16

17 5. The Debtors may have an interest in a pending personal injury claim. The Trustee  
18 requires information regarding the current status of the case, an estimate of the value of the claim,  
19 and the expected date when the case will be resolved. The Trustee advises the Debtors that any  
20 settlement is subject to Bankruptcy Court approval and that all or a portion of any settlement or  
21 recovery may be required to be turned over to the Trustee for the benefit of creditors. The Debtors'  
22 attorney must contact the Trustee's staff attorney, Edward Maney, to prepare an Application to  
23 Appoint Special Counsel. Finally, the proposed Order Confirming Plan must include a provision  
24 that any funds from the claim will be applied first to unsecured, priority claims, then to unsecured,  
25  
26  
27  
28

1 nonpriority claims, then finally as advance Plan payments, but the term of the Plan will not be  
2 reduced to fewer than 36 months unless all claims are paid in full.

3 6. **PLAN PAYMENT STATUS:** The Debtors must cure the delinquency of \$4,532.00 no  
4 later than May 10, 2020.

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6 SUMMARY: Pursuant to Local Rule 2084-10(b), by May 10, 2020, Debtors are to resolve  
7 all of the above issues, or the Debtors must file an objection to the Recommendation and obtain a  
8 hearing date. If neither is accomplished, then the Trustee could file a notice of intent to lodge a  
9 dismissal order. Once the above issues are resolved, the Trustee will file a Supplemental  
10 Recommendation with his requirements for the Stipulated Order Confirming Plan. The  
11 Supplemental Recommendation will also include the amount required to be paid through the Plan  
12 to unsecured creditors in order to meet the Best Interest of Creditors Test. The Trustee reserves the  
13 right to request additional documentation in the Supplemental Recommendation.  
14

15  
16 Copy mailed or emailed to:  
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27  
28 Digitally signed  
by Debra Toner  
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